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Polluters Face Tougher Penalties Under New Law
Chronic environmental violators targeted

Wilmington – Legislation enhancing financial penalties for polluters who repeatedly break Delaware's environmental protection statutes has become law, Attorney General Beau Biden announced today. The new law, drafted by the Department of Justice, ensures that those who repeatedly violate Delaware's environmental protection laws and show no willingness to reduce the pollution coming from their facilities will face stronger enforcement actions and greater financial penalties.

"The quality of Delaware's natural resources has a direct impact on our quality of life," said Attorney General Biden. "Polluters that threaten our air, water and soil over and over again by ignoring the penalties must face consequences significant enough to compel them to change – fines for violating our pollution laws cannot just be considered a cost of doing business. I want to thank the General Assembly and the Governor for working with me to make the law work harder for our environment and our families."

Senate Bill 92 was passed by the General Assembly in June and signed into law by Governor Jack Markell on August 16. It was sponsored in the Senate by Sen. David McBride, and in the House by Rep. Michael Mulrooney, Rep. Quinn Johnson, and Rep. Debra Heffernan.

"It's unfortunate, but there are some companies that have done business in Delaware, such as Metachem and some of the Delaware City refinery's former owners, who think paying fines for damaging the environment is just a cost of doing business," said Sen. McBride, D-Hawk's Nest. "It's my hope that these revisions to our law will get their attention and encourage them to join the majority of our companies who chose to play by the rules."

"DNREC has done its best to make these violators follow our laws," said Rep. Mulrooney, D-Pennwood. "We hope that these changes will make violators think twice before disregarding our laws and will finally give DNREC the authority to deal with businesses whose irresponsibility damages our environment and leaves taxpayers holding the tab."

Rep. Johnson, who chairs the House Natural Resources Committee, said the legislation will hold chronic violators accountable and protect taxpayers against bearing the burden of cleanup costs. "Our natural resources – our air, water and soil – should not be abused, said Rep. Johnson, D-

Middletown. “We must make sure that we are protecting our environment and holding polluters accountable.”

Improving upon Delaware’s 2003 “chronic violators” statute, the new law gives the Department of Natural Resources and Environmental Control (DNREC) clearer authority to designate polluters as chronic violators, which triggers enhanced financial penalties for future emissions and more stringent permitting and reporting requirements. Penalties have been increased from a maximum of \$10,000 per day to a maximum of \$10,000 per illegal emission per day.

Specifically the amended statute:

- Clarifies the definition of chronic violator status that applies to parties that demonstrate either an inability or an unwillingness to comply with Delaware law, or to parties that appear to treat environmental penalties simply as a business expense rather than an environmental threat it must correct.
- Broadens the standards and criteria DNREC uses to declare a chronic violator to include parties that have not adequately funded or modernized their operations, maintenance, training programs and risk management reviews and to parties that have not used recognized and generally accepted engineering and other industry practices to ensure compliance with environmental regulations.
- Updates DNREC's authority to amend and modify chronic violator regulations and enhances administrative penalties for violators. It significantly increases financial penalties from the current maximum of \$10,000 per day to \$10,000 for each separate release of each identifiable pollutant per day. This increased penalty could be substantially higher and acts as a more effective deterrent.

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